

Arlington Conservation Commission  
DRAFT Minutes  
August 17, 2017

Mr. Stevens called the meeting to order at 7:30 p.m. in the second floor conference room of the Town Hall Annex. Present were Commission Members Nathaniel Stevens, David White, Mike Nonni, Curt Connors and Janine White. Members Charles Tirone and Susan Chapnick and Interim Administrator Eileen Coleman were not present. Also present were Hannah Ruddatz (Conoco), Carol Beggy, Susan Wheltle, Bruce Wheltle, Megan Burns, Fred Heger, Peter Durning (Mackie Shea, PC), Elizabeth Pyle (Hill Law), Matt Hodge, Al Gala, Virginia Hutchinson, Justine Covault, Rob McConnell and Steve Scharde.

**Administrative:**

Spy Pond Restoration Project

Ms. Garnett explained that 3 proposals were received for the Spy Pond project. Chester Hatch was selected. Their proposal was slightly more expensive due to a Wildlife Habitat Survey, but they had more experience for this type of project than other bidders. They may not need a restoration permit so may not need to spend \$3k-4k for that. The proposal was detailed, and the company knew what they were doing. They hope to have a kick-off meeting before August 29 when Ms. Garnett leaves for vacation. Dominic Lanzillotti is preparing the contract, and Ms. Garnett hopes it will start next week.

Reservoir Master Plan

Mr. White mentioned that the kick-off meeting took place on Wednesday, and survey work has proceeded. Weston & Sampson and various town bodies were represented at the meeting. The first public meeting has been scheduled for the end of September.

Mr. Stevens explained that an RDA will be coming in for 48 Robin Hood Road and that he had issued a letter of approval to take down 2 dead trees overhanging a parking lot at the rear of 1323 Mass Ave.

**Request for Determination of Applicability - Gas mains Cottage Ave**

Documents considered:

*Request for Determination of Applicability including 5 Figures and 4 Appendices, dated July 31, 2017 and prepared for Boston Gas Company by Coneco Engineers & Scientists*

Hannah Ruddatz, wetland scientist with Coneco, introduced the project. It is a proposed gas main replacement within Cottage Ave, replacing 290 feet of existing 2' wrought iron main with a 4' plastic main. The plastic is considered better. The project will be within the 200' riverfront area for Alewife Brook and BLSF. Straw wattles with wooden stakes and silt sacks will be used for erosion control. It is believed that the work is exempt from the Wetlands Protection Act. She did not have a timeframe but could say that the trenches would be covered daily and the soil will be stabilized.

Mr. Connors pointed out that the wetland delineation was based on GIS rather than a formal delineation, and he requested that any approval include clarification that the wetland line(s) are not approved or accepted.

It was agreed that the work is in the Conservation Commission's jurisdiction and that a Notice of Intent was not required.

CConnors/DWhite moved to close the hearing.

DWhite/MNonni moved to make a (positive-negative) determination for the project – that it is within jurisdiction and further applications are not required.

Ms. Ruddatz asked that the Determination be issued to the Conoco address at Bridgewater.

**Notice of Intent - 88 Coolidge Road, continued from 8/2/17 (DEP#91-278)**

Documents Considered:

*Supplemental drainage calculations quantifying the impacts of surface runoff to Lot 36 and 37, produced by Gala Simon Associates, Inc., dated August 16, 2017.*

*Drainage Delineation Plan Proposed Conditions produced by Gala Simon Associates, dated August 7, 2017.*

*Memorandum from Attorney Elizabeth Pyle requesting the Commission issue a Denial for the project, dated August 17, 2017.*

*Assessor's card and deed for 86 Coolidge Road*

*Memorandum written by former Conservation Administrator Cori Beckwith on December 13, 2016*

*Response letter from Rich Kirby, LEC, dated December 15, 2016*

Mr. Stevens explained that more materials had been received from the Applicant.

Attorney Peter Durning spoke: he acknowledged the input of the Commission and staff and the public and the Applicant, Jonathan Nyberg, in the hearing process. At the last meeting Mr. Jim Vernon of Nobis, the hydrogeologist retained by the Commission, had presented his findings. Attorney Durning stated that Mr. Vernon had endeavored to eliminate all uncertainty that there would be any impact from this project, but that is not the Applicant's burden. Attorney Durning also stated that there have been diligent efforts by the Applicant's team to design a project that complies with the requirements of the Bylaw.

Al Gala for the Applicant next presented: he described the latest changes to the calculations, looking at the distribution of subsurface drainage systems. He said they addressed the fill material – plan now includes a note specifying that all fill material shall be coarse sand. They also showed the location of the crushed stone under the foundation, which has also been raised by an additional foot. Mr. Gala said that the issue of flow towards the neighbors was also addressed and that they have included 2 additional infiltration chambers in the front and removed one from behind, which also allowed them to push the retaining wall further back. A sump box has also been added which will collect sediment. There will also be a drain inlet into the system in front. They have provided additional sketches to illustrate the project and calculations which had also been distributed by email. He believes these additional changes represent a significant improvement. He said the calculations show that the proposed conditions are close to what they were under existing conditions, but they are also infiltrating a significant amount of water.

Matt Hodge, from Hodge Water Resources for the Applicant, who also submitted written comments, talked about the hydrogeological changes and addressed impacts to neighboring properties. He said that a good portion of the water that runs towards Mt. Vernon St. on the subsurface layer is now being detained, so while the volume has increased, the peak flow would be reduced.

Questions from the Commission:

- Mr. Connors asked if Mr. Nyberg would be willing to fund an independent observer during any approved construction work.

Mr. Durning agreed that he would.

- Ms. White inquired about the opening to the cultech unit.

Mr. Gala explained it can have a fine grate.

- Ms. Garnett asked about water movement over the paved area.

Mr. Gala demonstrated the flow on the drawings. There will also be a poly sheet against the foundation.

- Mr. Stevens asked for clarification on the water infiltration on the side of the property close to No. 86.

Mr. Gala explained that the topography didn't go toward No 86 and the retaining wall determine the flow, so flow should not go toward, but along boundary with No. 86 toward Mt. Vernon Street.

- Mr. Connors asked what would happen if water is observed during construction.

Mr. Gala said that the bottom of the system has to be 2 feet above spring water elevations or ledge. If an unusual or unexpected situation is encountered, small adjustments could be made to the drainage system. Mr. Hodge recalled that Mr. Vernon had asserted that a small flow would be capped with soil.

- Mr. Nonni asked if they would stop work if hit water.

Mr. Gala responded that if they see water in March it would not be unexpected but if hit water in July it would be a different matter.

Audience questions included:

- Is there a concern about the suitability of infiltration systems on 15% or 20% slopes?

Mr. Gala responded that there are retaining walls on the downside of the systems to prevent blowout. Also, the systems are sized for the bottom areas, and there are poly sheets in front of and beside the house foundation.

- What construction practices will be applied when there are open holes and infiltration systems not in place yet?

The water will be infiltrated as soon as possible though there will be a gap of a couple of months when not infiltrated. A temporary sedimentation pond could be created upslope of the foundation wall on the Mt. Vernon side; the Applicant indicated willingness to do so. Ms. White pointed out that haybales and sediment buildup also will impede the flow of water after rain conditions.

- Mr. Wheltle provided illustrations of what the site looked like in November 2016. His house was built on fill. He is concerned about the retaining wall encroaching on his backyard. He believes the Regulations cover aesthetics, wildlife and community assets rather than simply groundwater. Mr. Wheltle also provided copies of 151 photographs of site wildlife habitat and wildlife taken between 2015-2017. He went over the history of the project culminating in a proposal with tons of fill and vastly increased impervious area. He urged the Commission to consider the totality of the Regulations and expressed his concern that, if this project is approved, it will pave the way to building on the remaining vacant lots. He is also concerned about the apparent lack of replacement of the biomass provided by 3 substantial trees and lack of consideration of the absorption ability of the trees.

Mr. Gala pointed out that the proposed retaining wall will be alongside and will shore up Mr. Wheltle's retaining wall. He doesn't think construction of a house will significantly impact the wildlife. He also questions the validity of the photo-shopped picture provided.

- There won't be blasting, correct?

Correct, and that will be conditioned.

- What recourse do the people on Mt Vernon have if impacts occur?

Mr. Stevens suggested the injured party could ask the Commission to take enforcement action. He cannot advise on other remedies and suggested consulting their attorney.

- Concern was expressed over the lack of information on subsurface properties both uphill and downhill and unsubstantiated calculations.

Additional questions from the Commission:

- Mr. Connors wondered why the retaining wall had to be 10' high.

Mr. Gala said they go by the existing grade on the bottom and provide a level area for parking.

- Mr. Connors asked if observation of any water at all would be a concern?

Response: Mr. Vernon was specifically concerned about water coming out of bedrock or water elevations being unexpectedly higher. If they are higher, the Applicant must come back to the Commission. Based on the test pit results and existing runoff conditions, such a water source is not anticipated to come out of the ledge.

- Concern was expressed about possible system overflow impacts to neighbor Justine Covault's property.

Flows are more likely to run alongside rather than on to her property due to topography of both lots.

- Mr. Stevens questioned whether a system consisting of an overflow pipe and splashguard on a downspout to alert the homeowner if maintenance can be implemented in this Project, as Lexington Con Com requires.

This alert system is included already (see plan detail) and others described can be implemented here.

Attorney Pyle made a closing statement:

Attorney Pyle provided a memorandum explaining why she and her clients maintain the Commission should deny this project – it doesn't comply with Section 25 of the Wetlands Regulations, which requires that Adjacent Upland Area be left undisturbed. She continued that the Commission should take into consideration that the subdivision of the property was made without regard to the Wetlands Protection Act and Bylaw and that allowing this project gives tacit approval to development of Lots C and D. In addition she said the Alternatives Analysis is deficient.

Attorney Pyle also provided additional information about 86 Coolidge Road which she said is a good comparable to Lot A. The house at 86 Coolidge is 575 square feet, less than half the size of the proposed house at Lot A, and sold for \$722k, indicating that a small building is also viable.

Attorney Pyle also stated that the proposal failed to comply with Section 30 of the Regulations, because it will alter wildlife habitat in a detrimental manner. The vertical walls are devoid of habitat value, and biomass will be removed by the Project.

Attorney Pyle stated that the Project cannot meet the standard that the work will not have a significant or cumulative effect on the wetlands values protected by the Bylaw.

Attorney Pyle also addressed the height of the wall, but Mr. Stevens pointed out that is covered by Zoning rather than Conservation regulations.

Attorney Pyle also refuted a point Attorney Durning had made previously asserting a denial would constitute a taking under the Bylaw.

Attorney Durning made a closing statement:

Attorney Durning drew the Commissioners' attention to a December 15, 2016 letter from LEC walking through issues Cori Beckwith had raised in her memo referenced by Attorney Pyle, including alternatives analyses.

He pointed out that the Commission can condition the Project further so that it does not have a significant or cumulative effect.

Mr. Stevens sought to wrap up the meeting. After discussing whether to close at that time and deliberate at the next meeting, the Applicant agreed to waive the 21-day time period for issuing a decision, as the next Commission meeting is scheduled for September 7. It was agreed that six Commission members can vote – Ms. Chapnick can listen to a recording of this evening's portion of the Hearing, making her eligible to vote. Mr. Tirone is missing a second portion of the Hearing this evening and can also listen to the recording so that he can participate in deliberations. It was agreed the Commission would provide guidance on whether to approve or disapprove the Project on September 7, so a draft decision can be created and reviewed and discussed at the September 21 meeting and be issued by September 30. Mr. Durning on behalf of the Applicant agreed to extend the time to September 30 and provided a writing to that effect.

D. White/C. Connors moved to close the hearing, motion passed unanimously.

C. Connors move to continue the Hearing to September 7 at 8:30pm, motion passed unanimously.

The meeting was adjourned at 10pm.

Respectfully submitted,

Eileen Coleman  
Temporary Conservation Administrator

\*Via tape recording made by B. Whelittle